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SILVERBROOK RESEARCH PTY LTD			MRUK, GEOFFREY S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/728,803	Applicant(s) SILVERBROOK, KIA
	Examiner Geoffrey Mruk	Art Unit 2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 February 2009.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-8, 10-27 and 29-37 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-8, 10-27 and 29-37 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 February 2009 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. Claims 1 and 19 recite the limitation "a second layer of the single material heater layers overlaying and spaced from the first layer not having the heater element." This renders the claim vague and indefinite since one of ordinary skill in the art would not be able to ascertain whether or not the second layer contains an electrode or both an electrode and heater element since the heater element and electrode are "formed of the same material" as further required by claims 1 and 19.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3, 5-8, 11-13, 15, 18-21, 23-27, 30-32, 34, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubby (US 5,706,041) in view of Moon et al. (US 2002/0054191 A1), and further in view of Silverbrook (US 5,841,452).

With respect to claim 1, Kubby discloses an ink jet printhead (Column 1, line 10) comprising:

- a plurality of nozzles (Column 1, line 10);
- a heater (Fig. 4, element 18) associated with each of the nozzles respectively, the heater having a heater element and a pair of electrodes (Fig. 1, element 24; Column 3, lines 61-64, Column 4, lines 40-43, i.e. conductive traces),
- the heater element configured for thermal contact with a bubble forming liquid (Column 3, lines 64-67; Column 4, lines 1-4) and
- the electrodes configured for connection to an electrical power source (Column 1, line 20, i.e. digital signal); such that, heating the heater element above the boiling point of the bubble forming liquid forms a gas bubble that causes the ejection a drop of ejectable liquid from the nozzle (Column 1, lines 17-30);
- wherein the heater is formed by layers of material (Column 3, lines 64-67; Column 4, lines 1-4), such that the heater element and electrodes are formed of

a material (Column 3, line 50 – Column 4, line 55), a first layer (Fig. 4, element Poly 1) of the single material heater layers having the heater element (Fig. 4, element 20a) and electrodes (Fig. 1, element 24); and a second layer (Fig. 4, element Poly 2) of the single material heater layers overlaying and spaced from (Fig. 4, SiN₃, oxide) the first layer not having the heater element (Fig. 4, element 20b, i.e. thermistor; Column 4, lines 52-55).

With respect to claim 2, Kubby discloses the layers of heater material (Fig. 2, elements 20 and 22) forming the element and the electrodes (Fig. 1, element 24) are spaced apart (Column 3, lines 61-64).

With respect to claim 3, Kubby discloses the element (Fig. 1, element 18) has two layers of heater material (Fig. 2, elements 20 and 22) and the electrodes have three layers (Fig.1, element 24, Column 3, lines 54, 61-64) of heater material.

With respect to claim 5, Kubby discloses the bubble forming liquid and the ejectable liquid are of a common body of liquid (Column 1, lines 17-30).

With respect to claim 6, Kubby discloses a page-width printhead (Column 14-16).

With respect to claim 7, Kubby discloses each heater element is in the form of a cantilever beam (Column 1, line 66-67, i.e. suspending the heater chips).

With respect to claim 8, Kubby discloses the heater element (Fig. 4, element 18).

With respect to claim 11, Kubby discloses each heater element has two opposite sides and is configured such that a said gas bubble formed by that heater element is formed at both of said sides of that heater element (Column 1, lines 64-67; Column 2, lines 1-16; Column 4, lines 56-66).

With respect to claim 12, Kubby discloses the bubble which each element is configured to form is collapsible and has a point of collapse, and wherein each heater element is configured such that the point of collapse of a bubble formed thereby is spaced from that heater element (Column 1, line 27, i.e. nucleation).

With respect to claim 13, Kubby discloses a structure that is formed by chemical vapor deposition (CVD), the nozzles being incorporated on the structure (Column 3, lines 31-35; Column 5, lines 41-49, i.e. conventional CMOS processing).

With respect to claim 15, Kubby discloses a plurality of nozzle chambers each corresponding to a respective nozzle, and a plurality of said heater elements being disposed within each chamber, the heater elements within each chamber being formed on different respective layers (Fig. 1, elements 20 and 24) to one another (Column 1, lines 17-30).

With respect to claim 18, Kubby discloses each heater element is substantially covered by a conformal protective coating (Fig. 3, element Si₃N₄), the coating of each heater element having been applied substantially to all sides of the heater element simultaneously such that the coating is seamless (Column 4, lines 38-43).

With respect to claim 19, Kubby discloses a printer system (Column 1, line 6), which incorporates a printhead (Column 1, line 5), the printhead comprising:

- a plurality of nozzles (Column 1, line 10);
- a heater (Fig. 4, element 18) associated with each of the nozzles respectively, the heater having a heater element and a pair of electrodes (Fig. 1, element 24; Column 3, lines 61-64, Column 4, lines 40-43, i.e. conductive traces),

- the heater element configured for thermal contact with a bubble forming liquid (Column 3, lines 64-67; Column 4, lines 1-4) and
- the electrodes configured for connection to an electrical power source (Column 1, line 20, i.e. digital signal); such that, heating the heater element above the boiling point of the bubble forming liquid forms a gas bubble that causes the ejection a drop of ejectable liquid from the nozzle (Column 1, lines 17-30);
- wherein the heater is formed by layers of material (Column 3, lines 64-67; Column 4, lines 1-4), such that the heater element and electrodes are formed of a material (Column 3, line 50 – Column 4, line 55), a first layer (Fig. 4, element Poly 1) of the single material heater layers having the heater element (Fig. 4, element 20a) and a second layer (Fig. 4, element Poly 2) of the single material heater layers overlaying and spaced from (Fig. 4, SiN_3 , oxide) the first layer not having the heater element (Fig. 4, element 20b, i.e. thermistor; Column 4, lines 52-55), the second layer being configured to surround (Fig. 7, element 14 and Poly 2) the heater element of the first layer (Fig. 7, element 118 and Poly 1).

With respect to claim 20, Kubby discloses the layers of heater material (Fig. 2, elements 20 and 22) forming the element and the electrodes (Fig. 1, element 24) are spaced apart (Column 3, lines 61-64).

With respect to claim 21, Kubby discloses the element (Fig. 1, element 18) has two layers of heater material (Fig. 2, elements 20 and 22) and the electrodes have three layers (Fig. 1, element 24, Column 3, lines 54, 61-64) of heater material.

With respect to claim 23, Kubby discloses the bubble forming liquid in thermal contact with each said heater element, and to support the ejectable liquid adjacent each nozzle (Column 4, lines 56-66).

With respect to claim 24, Kubby discloses the bubble forming liquid and the ejectable liquid are of a common body of liquid (Column 1, lines 17-30).

With respect to claim 25, Kubby discloses a page-width printhead (Column 14-16).

With respect to claim 26, Kubby discloses each heater element is in the form of a cantilever beam (Column 1, line 66-67, i.e. suspending the heater chips).

With respect to claim 27, Kubby discloses the heater element (Fig. 4, element 18).

With respect to claim 30, Kubby discloses each heater element has two opposite sides and is configured such that a said gas bubble formed by that heater element is formed at both of said sides of that heater element (Column 1, lines 64-67; Column 2, lines 1-16; Column 4, lines 56-66).

With respect to claim 31, Kubby discloses the bubble which each element is configured to form is collapsible and has a point of collapse, and wherein each heater element is configured such that the point of collapse of a bubble formed thereby is spaced from that heater element (Column 1, line 27, i.e. nucleation).

With respect to claim 32, Kubby discloses a structure that is formed by chemical vapor deposition (CVD), the nozzles being incorporated on the structure (Column 3, lines 31-35; Column 5, lines 41-49, i.e. conventional CMOS processing).

With respect to claim 34, Kubby discloses a plurality of nozzle chambers each corresponding to a respective nozzle, and a plurality of said heater elements being disposed within each chamber, the heater elements within each chamber being formed on different respective layers (Fig. 1, elements 20 and 24) to one another (Column 1, lines 17-30).

With respect to claim 37, Kubby discloses each heater element is substantially covered by a conformal protective coating (Fig. 3, element Si₃N₄), the coating of each heater element having been applied substantially to all sides of the heater element simultaneously such that the coating is seamless (Column 4, lines 38-43).

However, Kubby fails to disclose the heater element and electrodes are formed of the same material, the first layer being configured so that the electrodes surround the nozzle, and each heater element is configured such that an actuation energy of less than 500 nanojoules (nJ) is required to be applied to that heater element to heat that heater element sufficiently to form a said bubble in the bubble forming liquid thereby to cause the ejection of a said drop.

The secondary reference Moon discloses an ink jet printer head where "a heater portion 221 and the electrode portions 222 are typically made of a single material or of a same material" (paragraph 0036).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the heater and electrode portions disclosed by Moon in the printhead of Kubby. The motivation for doing so would have been "the process and cost of

fabrication of an ink jet printer head according to the present invention can be reduced, and productivity can thereby be increased" (paragraph 0036).

The tertiary reference Silverbrook discloses an ink jet print device where the first layer (Figs. 10 and 12, element 120) being configured so that the electrodes surround the nozzle (Fig. 10, element 111) and a thermal ink jet printer, which uses heater energy of 200 nJ to eject ink. Using this energy allows the power dissipation to be reduced without affecting print speed (Column 18, lines 15-18).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the teachings of Silverbrook in the ink-jet printhead of Kubby. The motivation for doing so would have been to reduce power dissipation without affecting print speed (Column 18, lines 15-18).

2. Claims 4, 16, 17, 22, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubby (US 5,706,041) in view of Moon et al. (US 2002/0054191 A1), in view of Silverbrook (US 5,841,452), as applied to claims 1 and 19 above, and further in view of The Fabrication and Reliability Testing of Ti/TiN Heaters (DeMoor).

Kubby disclosed the claimed inventions with the exception of:

- the heater material is titanium nitride,
- each heater element is formed of solid material more than 90% of which, by atomic proportion, is constituted by at least one periodic element having an atomic number below 50, and
- each heater element includes solid material and is configured for a mass of less than 10 nanograms of the solid material of that heater element to be heated to a

temperature above said boiling point thereby to heat said part of the bubble forming liquid to a temperature above said boiling point to cause the ejection of a said drop.

DeMoor discloses:

- it is desirable to use a heater made of Ti/TiN in integrated MEMS systems (a thermal inkjet is such a system), because this material provides the advantages of CMOS fabrication (low cost and uniformity) in combination with a very high reliability (see conclusion),
- Ti has an atomic number of 22, and
- Each heater element includes solid material and is configured for a mass of less than 10 nanograms (Table 1 and Fabrication dimensions).

At the time the invention, it would have been obvious to one of ordinary skill in the art to use the Ti/TiN Heaters of DeMoor in the ink-jet printhead of Kubby. The motivation for doing so would have been to provide the advantages of CMOS fabrication (low cost and uniformity) in combination with a very high reliability Ti/TiN heater (Conclusion).

3. Claims 10 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubby (US 5,706,041) in view of Moon et al. (US 2002/0054191 A1), in view of Silverbrook (US 5,841,452), as applied to claims 1 and 19 above, and further in view of in view of Feinn et al. (US 6,543,879 B1).

Kubby disclosed the claimed inventions with the exception of area density of the nozzles relative to the substrate surface exceeds 10,000 nozzles per square cm of substrate surface.

Feinn discloses an ink jet print head having a nozzle density of at least 10,000 nozzles per square cm (see Abstract) in order to improve the resolution of the print head (Column 1, lines 53-67).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the teachings of Feinn in the ink-jet printhead of Kubby. The motivation for doing so would have been to improve the drop generation rate of the print head (Column 1, lines 53-61).

4. Claims 14 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubby (US 5,706,041) in view of Moon et al. (US 2002/0054191 A1), in view of Silverbrook (US 5,841,452), as applied to claims 1 and 19 above, and further in view of Kashino et al. (US 5,534,898).

Kubby disclosed the claimed inventions with the exception of a structure, which is less than 10 microns thick, the nozzles being incorporated on the structure.

Kashino discloses that it is desirable to have a nozzle plate that is only several microns thick, in order to obtain adequate values of drop velocity, drop size and refilling frequency (Column 6, lines 34-42).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the teachings of Kashino in the ink-jet printhead of Kubby. The motivation

for doing so would have been to obtain adequate values of drop velocity, drop size and refilling frequency (Column 6, lines 34-42).

Response to Arguments

Applicant's arguments with respect to claims 1 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey Mruk whose telephone number is (571)272-2810. The examiner can normally be reached on Monday-Friday 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. M./
Examiner, Art Unit 2853
3/9/2009

/Stephen D Meier/
Supervisory Patent Examiner, Art Unit 2853